

INITIAL STATEMENT OF REASONS

CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY

Sections 7030 through 7050 Title 4, Division 10 California Code of Regulations

INTRODUCTION

The California Health Facilities Financing Authority (the “Authority”) is organized and operating pursuant to Sections 15430 through 15462.5 of the California Government Code (the “Act”). The Children's Hospital Bond Act of 2004 (the “Act”), passed by the voters on November 2, 2004 charged the Authority with implementing a \$750 million grant program for California children’s hospitals (the “Program”). With the passage of the Act, the voters recognized the need to increase and expand the health care services provided by these hospitals to California’s critically ill children.

The Authority seeks to amend Sections 7030 through 7050 , to the Regulations in order to implement, interpret, and make specific Division 1, Section 1179.10 of the Health and Safety Code.

Existing law authorizes the Authority to award grants to an eligible participating general acute care hospital for purposes of financing capital outlay projects and requires the Authority to develop evaluation criteria and a process for awarding grants. Existing law requires the Authority to develop a written application for the awarding of grants within 90 days of the adoption of existing law. It also requires grants to be awarded within 60 days from receipt of an application for funds. Existing law requires the Authority to take into account several specified factors when selecting grantees and determining grant amounts.

The Authority proposes to amend sections 7030 through 7050, of Title 4, Division 10 of the California Code of Regulations (Regulations). The amendments to the Regulations are intended to clarify the requirements of the Program.

1. Specific Purpose and Necessity, administrative requirement or other condition or circumstance that the amendments are intended to address.

There are several existing references to the Children’s Hospital Program which are being renamed as the Children’s Hospital Program *of 2004* to distinguish it from the newly created Children’s Hospital Program of 2008 (Sections 7030, 7035, 7042, 7044, 7049 and 7050).

Section 7030. The application number was changed to reflect the revised application form.

Section 7034. The application number was changed to reflect the revised application form.

Section 7035. The requirement for an application to be submitted on the first day of the month in order to be considered for the following month has been moved from Section 7035 (Application Form Submission) to Section 7037 (Application Form Evaluation). It is appropriate for the application due-date requirement to appear in Section 7037, as it will follow and clarify Section 7037(a) which specifies an evaluation period of 60 days from receipt.

Section 7035. Clarifying, clean-up language: The words “blank” and “forms” have been added in the following sentence: If necessary, *blank application forms* for the Second Funding Round shall be available no later than June 1, 2014.

Section 7037 (b): Language moved from Section 7035. As explained above, it is appropriate for the application due-date requirement to appear in Section 7037, as it will follow and clarify Section 7037(a) which specifies an evaluation period of 60 days from receipt.

Section 7038(c)(2)(A). Language regarding the evaluation of project feasibility and readiness based on the status of architect, design and engineering contracts has been consolidated and made uniform with the evaluation of construction contracts. Previous language required the submission of a draft of architect, design and engineering contracts. This has been changed to allow for hospitals that are actively obtaining these contracts, as is the currently the case with construction contracts.

Section 7038(c)(2)(B). This Section, which requires a timeline for architect, design and engineering projects is redundant and has been eliminated. 7031(a)(6) already requires the Hospital to provide a timeline and reasonable assurance that the larger project will be completed.

Section 7038(c)(2)(B). Clarifying language added: The term “larger project” is substituted for “approved project” to clarify that it is expected that property acquisition will be part of a larger project that will meet the Program’s evaluation criteria (expanding healthcare access, improving patient outcomes, etc.). This Section has been renamed from Section 7038(c)(2)(C) with the deletion of the existing 7038(c)(2)(B).

Section 7038(c)(2)(D). Language has been added to clarify that proof of Project funding sources is required. Language has been deleted specifying that approval letters are required and that a commitment letter must demonstrate that funding is secured and available. Language has been added to specify that a board approved capital campaign plan, or any other documentation acceptable to the Authority, are among the types of documentation required to demonstrate Project feasibility.

This section has been changed to:

- Provide the Authority with the discretion to evaluate the feasibility of a project before funds are secured and available;
- Give the Authority the discretion to judge the acceptability of the documentation provided;
- Specify that approved capital campaigns are among the factors to be considered in evaluating project feasibility.

Section 7038(e). Language has been deleted specifying that the review of an Applicant's financial capacity, based on a review of an Applicant's Financial Statements, is for the purpose of ensuring the Applicant is financially sound. An Applicant's Financial Statements are reviewed as part of staff's evaluation of the feasibility and readiness of a project. Financial soundness, however, is not among the criteria listed in the statute and the term is not defined in the statute. Staff does, however, review the Financial Statements to ensure that they do not contain any Going Concern Qualifications, per Section 7031(a)(2).

Section 7045(a)(1). "Real property acquisition" projects are specifically excluded from Section 7045(a)(1) to clarify that the executed construction contract and building permit requirements of this section are not applicable to that type of project. Requirements for real property acquisition are specified in Section 7045(a)(3).

7045(a)(3). The words "from the date of the executed purchase and sale agreement" have been added to this section to establish the starting date of the six month period for the appraisal of a real property acquisition. This section currently states that such an appraisal may not be more than six months old, but does specify how the six month period is to be computed.

7045(c). Language regarding investment earnings has been removed from this section but is being added into the new Section 7045(d).

7045(d) Section 7045(d) has been added to specify that, although investment earnings on Grant funds must be paid to the Authority, it is not required that those earnings be repaid on a periodic basis, in the form of a credit towards grant funds. Current language regarding investment earnings would be removed from Section 7045(c).

7046(a)(3). Section 7046(a)(3) has been revised to eliminate the requirement that documentation submitted by the Grant be organized by vendor. Requiring a certain this specific organizational method has not proven to serve any administrative or other purpose.

7046(a)(3). Language stating that checks which cover non-Project expenditures are not acceptable documentation for the purpose of releasing grant funds has been deleted. This has not proven to serve any administrative or other purpose. A check which includes non-Project expenditures may be acceptable if there is sufficient documentation supporting all expenditures covered by that check to the satisfaction of Authority staff.

7048(a)(1). Language has been deleted from Section 7048(a)(1) requiring a final payment certification by the architect, a final payment request from the contractor and corresponding copies of cancelled checks. It was determined that a copy of the certificate of occupancy or notice of completion was sufficient documentation of the completion of a grant funded Project. In addition, in certain situations, such as multi-phase projects, a final payment to the contractor may not occur until long after the grant funded Project is complete.

7048(a)(1). The language “Purchase orders, invoices, and cancelled checks shall be submitted” was added to make this section consistent with 7048(a)(3) regarding equipment acquisition projects.

7048(a)(3). Section 7048(a)(3) has been revised to eliminate the requirement that documentation submitted by the Grant be organized by vendor. Requiring a certain this specific organizational method has not proven to serve any administrative or other purpose.

7048(a)(3). This currently states that Grantees shall submit copies of contracts for equipment projects. The word “service” has been added to clarify and specify that the type of contracts that are applicable to equipment projects are service contracts.

7048(a)(3). Current language requires that:

- cancelled checks be provided as documentation of equipment acquisition projects, and
- those checks may not include payment for non-Project costs.

Requiring that checks not include payment for non-Project costs has not proven to serve any administrative or other purpose and is being deleted. A check which includes non-Project expenditures may be acceptable if there is sufficient documentation supporting expenditures covered by that check to the satisfaction of Authority staff on a case-by-case basis. This is consistent with the existing language of Section 7048(a). 7048(a)(3) specifies the necessity of cancelled checks while 7048(a) specifies that supporting documentation provided by the Grantee shall be to the satisfaction of Authority staff.

2. Material relied upon.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the amendments to the Regulations.

3. Alternatives to the amendments to the Regulations considered by the Agency.

No other alternatives to the Regulations were presented to or considered by the Authority. These Regulations are necessary to implement the Grant program.

4. Determination of no significant statewide adverse economic impact directly affecting businesses.

The Authority has not identified any adverse impacts nor have any adverse impacts otherwise been identified and brought the attention of the Authority that would affect businesses. In fact, adoption of the regulations should result in improved business fiscal operations since the intent of the Amendments to the Program is to better enable the Authority to reward children's hospitals that are expanding into new services or improving health services with grants up to \$74 million.

5. Description of efforts to avoid conflict with and duplication of federal regulations.

Not applicable